

(1999) 10 KL CK 0041
In the High Court Of Kerala
Case No : O.P. No. 24576 of 1999-G

Simi Raj, S.P.

APPELLANT

Vs

The Commissioner for Entrance Examinations, Trivandrum

RESPONDENT

Date of Decision : 14-10-1999

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 2000 Ker 76

Hon'ble Judges : M.R. Hariharan Nair, J;K.S. Radhakrishnan, J

Bench : Division Bench

Advocate : Sumathi Dandapani, for the Appellant; K. Jayakumar, Sr. Govt. Pleader, for the Respondent

Final Decision : Dismissed

Judgement

Radhakrishnan, J.—Petitioner submits that he belong to Latin Catholic Other than Anglo-Indian community. On the basis of Prospectus for Admission to Professional Degree Courses, 1999, petitioner submitted application for Engineering/Medicine Courses. Earlier petitioner's rank was 3137 for Medicine and 3098 for Engineering. In the revised rank list his rank for Engineering and Medicine is respectively 3426 and 3235. According to petitioner, earlier he was considered in the General quota, and unless he is considered in the quota earmarked for Latin Catholic other than Anglo Indian Community, he would lose the chance of getting admission. However, his request for consideration under the quota earmarked for Latin Catholic other than Anglo Indian community was not acceded to by the respondents on the ground that petitioner failed to produce the certificate to that effect along with application. The last date for receipt of applications was 12.5.1999, but petitioner submitted the community certificate from the Village Officer only on 13.9.1999. Counsel submitted the requirement to produce the certificate along with application form is not a mandatory requirement. Smt. Sumathi Dandapani, counsel for the petitioner, submitted that the petitioner need produce the certificate only at the time of admission/

counselling. Counsel relied on the decision of this Court in *Relly Susan Mathew v. The Controller of Entrance Examinations* ILR(1997) Ker 489. Reference was also made to the decision of the Supreme Court in *Charles K. Skaria v. C. Mathew* AIR 1980 SC 1230 and also to the decision of the Madras High Court in *V. Premanand Vs. The State of Tamil Nadu and others*, .

2. Sri. K. Jayakumar, Senior Government Pleader, Submitted that as per the prospectus published by the Commissioner for Entrance Examination those who claim the benefit of Latin Catholic Other than Anglo-Indian Community, has to fill in community certificate and get it duly signed by the Village Officer, and that should form part of the application itself. It is also his contention that the said requirement is a mandatory requirement. Only if the applications are duly filled in with all requisite details, it would be possible for the respondents to ear-mark seats under the reservation quota. Learned Senior Government Pleader referred to a Division Bench decision of this Court in W.A.No. 1457 of 1998 and contended, relying on the Prospectus for the year 1998, a Division Bench of this Court took the view that when prospectus required certificate should be given in a particular manner, then that should have been submitted only in that fashion and in no other manner.

3. We have gone through the Prospectus published by the Commissioner for Entrance Examinations for Admission to Professional Degree Courses, 1999 closely, and also the application form submitted by the petitioner. The prospectus was distributed all with the application form. Clause V of the Prospectus deals with the claim for reservation and certificates to be produced. Clause 5.2 says that all the candidates seeking admission under the Special Reservation categories will have to appear for the common entrance examination, and that they should mention the item of reservation claimed in the relevant column in the application form and should be otherwise eligible as per Clause VI. Note (iii) to Clause 5.2 reads as follows:

"Candidates should attach attested copies of the relevant certificates as mentioned for each item below in support of the claim."

4. We may also refer to Clause 5.3.3 which reads as follows:

"Claim for communal reservation under Socially and Educationally backward classes (SEBC).

Note :.....

(a)

(b) Candidates claiming reservation under SEBC quota such as Ezhava, Muslim, Other Backward Hindus, Latin Catholic Other than Anglo Indian and Other Backward X"ian should invariably produce both Community and Income Certificates obtained from the concerned Village Officer. The above certificates should be obtained in the body of the application form itself."

Clause 7.4 deals with instructions for filling up the application form. Clause 7.4(b) is relevant for the purpose, which is extracted below:

"7.4(b). Application should be complete in all respects. A candidate will be considered for admission to the Common Entrance Examination only if he/she has furnished the relevant certificates prescribed in the Prospectus in proof of Eligibility, as well as in support of any claim for reservation under any category.

Clause 7.5 deals with certificates/documents to be produced. Clauses 7.5.4 and 7.5.5 read as follows:

"Candidates should produce copies of the certificates from the concerned authorities in accordance with their claim (see Clause 5.2).

Certificates in support of any other reservation claimed as specified in the Prospectus/Application."

Clauses 7.8 (a) and (b) are relevant, which are extract below:

"(a) IMPORTANT: Documents/Certificates furnished after the submission of the application will not be entertained under any circumstances.

(b) No opportunity will be given to Incorporate any details after the submission of the application."

5. Application to be submitted by an applicant deals with community certificate which reads as follow

" 3 Community Certificate.

(This Certificate is required only if the candidate claims reservation under the Socially and Educationally Backward Classes/Other Eligible Communities)

Certified that Shri./Smt./Kumari..... son/daughter of Shri/Smt..... House.... Village Taluk District of Kerala State, be longs to ... caste ... religion which is included as Socially and Educationally Backward Class as per G.O.(P) No. 208/66 dated 2.5.1966 and subsequent amendments thereon.

Signature of Village Officer

Note : In cases where the Community is noted only as "Latin Catholic" or "Latin Christian" in the SSLC and reservation under Latin Catholic other than Anglo Indian is sought a certificate from the Village Officer that the candidate belongs to "Latin Catholic Other than Anglo-Indian" or "Latin Christian other than Anglo Indian" should obtain in the above form."

A candidate also has to make the following declaration.

"(1) I hereby declare that I have read the various clauses in the Prospectus and Instructions carefully and I agree to abide by them.

(2) I also declare that all the statements made in the application are true,

complete and correct to the best of my knowledge, and belief and that in the event of any information being found false or incorrect or ineligibility being detected before or after the examination, action can be taken against me by the Controller of Entrance Examinations."

Clause 11.3 of Annexure XI also says that Socially and Educationally Backward Classes candidates will produce community certificates given at page 6 of the application form.

6. It is evident from the above mentioned Clauses in the application form as well as in the Prospectus, that a candidate is obliged to fill in all relevant particulars in the application form itself. A candidate has also to give a declaration that he has read various Clauses in the prospectus and instructions carefully. As we have already indicated, it is clearly stated in the Prospectus that candidates seeking reservation under the Latin Catholic other than Anglo Indian Should invariably produce both community certificate and income certificate obtained from the concerned Village Officers and that the same should be obtained in the body of the application form itself. Further, the prospectus also clearly says that documents/certificate furnished after the submission of the application will not be entertained under any circumstances, and no opportunity will be given to incorporate any details after the submission of the application.

7. In view of the categorical statements in the Prospectus as well as in the application form, we are of the view that the requirement to produce the community certificate along with the application form is a mandatory requirement.

8. The decision relied on by the petitioner in *Charles K. Skaria v. C. Mathew* AIR 1980 SC 1230 is not applicable to the facts of the case. That was a case where the post graduate diploma holders were considered and selected for admission to the post graduate degree course in Ophthalmology by giving them benefit of 10 marks as per paragraph 4 of prospectus on receipt of information from the University after the last date for application, but before the date of selection, as to their having obtained the diploma before the last date of application in accordance with the Government directive. In that case further the prospectus permitted the Government to modify the method. In that view of the matter, the Supreme Court held that there was nothing objectionable with the Government directive to the selection committee, nor in the communication to the selection committee by the University nor even in their taking into consideration and giving credit for diplomas, although authentic copies of the diplomas were not attached to the application for admission. The prospectus dealt with by the Madras High Court in *V. Premanand Vs. The State of Tamil Nadu and others*, is different from the one involved in this case. Prospectus in this case says that documents/certificates furnished after the submission of the application will not be entertained under any circumstances. We are of the view that the decision of this Court in *Relly Susan Mathew v. The Controller of Entrance Examinations* ILR(1997) Ker 489 is not applicable to the facts of the case, in view of the

clauses in the prospectus herein before referred to.

9. In the above mentioned circumstances, we are of the view that the requirement to produce community certificate along with the application form is a mandatory requirement and that going by Clauses 7.5(a) and (b) documents/ certificates furnished after the submission of the application are not to be entertained under any circumstances, and that candidates are not entitled to incorporate any detail after the submission of applications.

10. We do not find any illegality in the stand taken by the Commissioner for Entrance Examinations in rejecting the request of the petitioner. Original Petition lacks merits and the same is dismissed.